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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,107	12/20/2001	Scott A. Olson	CM03409J	3391
22917	7590	09/07/2006	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			KESACK, DANIEL	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,107

Applicant(s)

OLSON ET AL.

Examiner

Dan Kesack

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Amendment filed June 22, 2006 has been entered and fully considered. Currently amended claim 20 and previously presented claims 21-24 are currently pending. Claims 1-19 have previously been cancelled. The rejections are as stated below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 20-22, 24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Van den Heuvel et al., U.S. Patent No. 5,301,359, in view of Noreen et al., U.S. Patent Application Publication No. 2002/0183059, as cited in the previous Office Action.
4. Claim 23 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Van den Heuvel and Noreen as applied to claims 20-22, and 24 above, and further in view of Snelgrove et al., U.S. Patent Application Publication No. 2002/0058532.

Response to Arguments

5. Applicant's arguments filed June 22, 2006 have been fully considered but they are not persuasive.

6. In Applicant's remarks made in the amendment filed June 22, 2006, Applicant correctly cites Examiner's equating of the bulletin board controller of Van den Heuvel to Applicant's brokering agent. However, it appears that Applicant argues the communicated information taught by Van den Heuvel (column 3 line 53 – column 4 line 2), cannot be equated to the "communication information necessary for the subscriber unit to automatically communicated with the brokering agent", and therefore does not satisfy the antecedent basis required by the claim language. In order to satisfy the antecedent basis of the claim, the "communication information" of the prior art must be obtained "over a broadcast RF subcarrier of a commercial FM broadcast station," and must be "information necessary for the subscriber unit to automatically communicate with a brokering agent".

Applicant correctly states that Van den Heuvel teaches that the communication to the bulletin board controller is based on "a bulletin board inbound resource that is associated with the bulletin board outbound resource (which could be accomplished, for example, by paired frequencies, dedicated time slots in a single channel system, or with a simpler contention based single channel resource)."

Regardless of the method used to communicate the information, the information is communicated on "a bulletin board inbound resource that is associated with the bulletin board outbound resource." If the inbound resource is based, at least in part, on the outbound resource, as taught by Van den Heuvel, then the inbound resource inherently uses information from the outbound resource, and therefore this "communication information" taught by Van den Heuvel is necessary for the subscriber unit to automatically communicate with the brokering agent. Without the outbound resource communication, the communication unit would have nothing to base its "association".

Furthermore, Van den Heuvel teaches this "communication information" which defines the inbound communication resource, is obtained over the RF broadcast, because Van den Heuvel teaches the communication unit locating the resource through appropriate scan mechanisms (column 3 lines 48-52). Once the outbound communication resource is located, the inbound communication resource can be determined, and therefore meeting the claim language of "using communication information to communicate to the brokering agent the identity of a particular wireless service."

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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